

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>6/11/13</u>

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MEDISIM LTD.,

Plaintiff,

-against-

BESTMED LLC,

Defendant.

-----X

10 CIVIL 2463 (SAS)
AMENDED
JUDGMENT

Whereas this case was tried to a jury, which returned a verdict finding that defendant BestMed LLC ("BestMed") willfully infringed on U.S. Patent No. 7,597,668 ("the '688 Patent"), of which plaintiff Medisim Ltd. ("Medisim") is the sole assignee and owner; the jury also having found that BestMed infringed Medisim's copyright in the Instructions for Use ("IFU") for its thermometers, and that BestMed was unjustly enriched under New York law; the jury having awarded Medisim \$1.2 million for its patent infringement claim, and \$2.29 million for its unjust enrichment claim; Medisim having sought only equitable relief for its copyright claim; post-trial, BestMed having moved for judgment as a matter of law ("JMOL"), or, alternatively, for a new trial; the Court, on May 15, 2013, having rendered its Opinion and Order granting BestMed's motion for JMOL, holding that the '668 Patent is invalid as anticipated by the FHT-1 thermometer, and likewise overturning the jury's verdict for Medisim on its unjust enrichment claim, denying Medisim's post-trial motions, except for its motion for an injunction disposing of materials in BestMed's possession infringing its copyright, which is granted, ordering BestMed to deliver all such infringing materials to Medisim within thirty days of this Order, vacating the Judgment entered at Doc. No. 156, and directing the Judgment Clerk to enter a new judgment consistent with this Order; thereafter, Medisim having moved to amend the Clerk's Judgment, and the matter having

come before the Honorable Shira A. Scheindlin, United States District Judge, and the Court, on June 6, 2013, having rendered its Order granting Medisim's Motion to Amend the Clerk's Judgment filed on June 4, 2013, that the Clerk's Judgment [D.E. 211] shall be amended to state that only claims 1, 8-12, 15, 19, 21, 27, 32 and 35-37 of U.S. Patent No. 7,597,668 ("the '668 patent") are invalid as anticipated by the FHT-1 thermometer, directing the Clerk to enter an amended judgment which indicates that U.S. Patent No. 7,597,668 shall be referred to as "the '668 patent", and directing the Clerk to enter an amended judgment in accordance with this Order, it is,

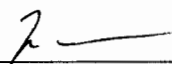
ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Opinion and Order dated May 15, 2013 and Order dated June 6, 2013, BestMed's motion for JMOL is granted; U.S. Patent No. 7,597,668 shall be referred to as "the '668 patent"; the Court holds that only claims 1, 8-12, 15, 19, 21, 27, 32 and 35-37 of U.S. Patent No. 7,597,668 ("the '668 patent") are invalid as anticipated by the FHT-1 thermometer, and likewise overturn the jury's verdict for Medisim on its unjust enrichment claim; Medisim's post-trial motions are denied, except for its motion for an injunction disposing of materials in BestMed's possession infringing its copyright, which is granted; BestMed is ordered to deliver all such infringing materials to Medisim within thirty days of the Order dated May 15, 2013.

Dated: New York, New York
June 11, 2013

RUBY J. KRAJICK

Clerk of Court

BY:



Deputy Clerk

**THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON _____**